

**FINAL**

## SUPPLEMENTARY REBUTTAL PROOF OF EVIDENCE

of **Nicola Brown** BA(Hons), BLand Arch, Cert UD, CMLI

on behalf of **Cherwell District Council**

relating to

### LANDSCAPE AND VISUAL MATTERS

In connection with

**LAND EAST OF PLOUGHLEY ROAD, AMBROSDEN, OX25 2AD**

TOWN & COUNTRY PLANNING ACT 1990, SECTION 78 APPEAL

Planning Inspectorate Ref: APP/C3105/W/23/3327213

Cherwell District Council Ref: 22/02866/OUT (application) and 23/00091/REF (Appeal)

**February 2024**

<p><b>Date of Issue: 13/02/2024</b> <b>Status/Revision: final</b> <b>Checked: DH Approved: NB</b> File ref: 925/reports/HBA/925 Land East of Ploughley Road - NB Supplementary Rebuttal Landscape Proof – Nicola Brown – final.doc</p>
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**CONTENTS**

1 INTRODUCTION..... 1  
2 REVISED NPPF ..... 2  
3 ERRATA..... 2  
4 POINTS OF CLARIFICATION..... 3  
5 REBUTTAL POINTS ..... 4

**APPENDIX 1: Supplementary Winter Photographs: Viewpoints NB VP 1 to NB VP7**

## 1 INTRODUCTION

- 1.1 This Supplementary Rebuttal Proof of Evidence has been prepared by Nicola Brown, instructed by Cherwell District Council (the Council) in respect of the appeal concerning landscape and visual matters and should be read in conjunction with my main Proof of Evidence and Appendices (both October 2023) and my Rebuttal Proof of Evidence (November 2023).
- 1.2 My supplementary evidence addresses the following changes to national policy and planning applications (that are referenced in my original Proof of Evidence and Rebuttal), since the appeal was postponed on 15<sup>th</sup> November 2023:
- A revised NPPF, published on 19<sup>th</sup> December 2023 (as amended).
  - Planning application ref: 22/01976/OUT (North of Blackthorn Road), indicated on my Figure NB4 (and NB Rebuttal Figure 2) as 'resolved to grant planning permission' has now been permitted.
  - A new application (ref 23/03071/OUT) has been submitted on the site of the refused application (ref: 22/02455/OUT) indicated on my Figure NB4 (and NB Rebuttal Figure 2) on land east of Church Ley Field adjacent to Blackthorn Road.
- 1.3 I have taken the opportunity to re-visit and inspect the local area and viewpoints in winter, viewing the site and village from local roads on 31<sup>st</sup> January 2024 with a subsequent visit to walk public rights of way and obtain photographs on 7<sup>th</sup> February 2024. I provide winter versions of Photo Viewpoints NB VP1 – NB VP7 as indicated on my Figure NB5 (Appendix 1 of the Appendices to my Proof), at Appendix 1 of this Supplementary Rebuttal.
- 1.4 The following information has also been sent to me by the appellant since the appeal was postponed:
- Rebuttal of Evidence: Nicola Brown by Mr Ben Connolley, dated November 2023, received from David Bainbridge on behalf of the appellant on 6<sup>th</sup> February 2024.
  - Draft winter wireline views dated 7<sup>th</sup> February 2024, received from Mr Ben Connolley on 8<sup>th</sup> February 2024.
- 1.5 In this regard, my Rebuttal Proof of Evidence was issued to the Planning Inspectorate alongside other rebuttal evidence, by the Council, on 10<sup>th</sup> November 2023, to meet the Inquiry programme agreed at the Case Management Conference. In light of the agreed postponement of the Inquiry on the same date, a request was made to PINS by the Council that those rebuttals were not exchanged unless rebuttal evidence was also submitted by the appellant to PINS. As no rebuttal evidence was provided, I had therefore been working on the understanding that no rebuttal evidence had been presented by the appellant. I am now advised by the appellant that a rebuttal was prepared by Mr Connolley and submitted to PINS on 13<sup>th</sup> November 2023. I was unaware of this until a telephone conversation with Mr Connolley on 6<sup>th</sup> February 2024. I subsequently received Mr Connolley's rebuttal of my evidence by email from Mr Bainbridge on 6<sup>th</sup> February 2024.

- 1.6 I have had limited time to review Mr Connolley's rebuttal evidence and the draft winter wireline views before the submission deadline for adjusted/updated evidence on 13<sup>th</sup> February 2024. I have responded to those documents in this Supplementary Rebuttal Proof of Evidence but my comments are not exhaustive and do not seek to address all areas of disagreement, particularly where they have been explored in both mine and Mr Connolley's evidence to date. I reserve my position to comment on any further or supplemental points arising. For the avoidance of doubt, where issues which remain in dispute are not addressed herein, it should not be interpreted as an acceptance of the appellant's position.
- 1.7 I should also clarify that up until 6<sup>th</sup> February 2024, I had also understood that my rebuttal evidence had not been submitted to either the appellant or the Inspector and had been formally recalled in order to allow the preparation of a consolidated update. Mr Connolley advised on 6<sup>th</sup> February 2024 that he had received my rebuttal evidence last year. I therefore now present both updated information and my response to the recently received rebuttal and winter wirelines within this Supplementary Rebuttal Proof rather than providing a replacement consolidated document.
- 1.8 I have included an errata list within this supplementary document. This does not seek to amend my previously submitted evidence (or indeed pick up every typographical error) but provides clarity or correction of points already made in evidence.
- 1.9 As with my Proof of Evidence and rebuttal, I confirm that the contents of this Supplementary Rebuttal Proof of Evidence represent my true and professional opinions and that the information provided is true to the best of my knowledge and has been prepared and is given in accordance with the Code of Practice of my professional institute, the Landscape Institute.

## 2 REVISED NPPF

- 2.1 Section 12 of the NPPF is now titled "*Achieving well-designed and beautiful places*", emphasising the role of beauty and beautiful places in good design and place-making.
- 2.2 The following paragraph references have been updated:
- Where I reference NPPF Paragraph 130 in my proof, this is now NPPF Paragraph 135.
  - Where I reference NPPF Paragraph 131 in my proof, this is now NPPF Paragraph 136.
  - Where I reference NPPF Paragraph 174 in my proof, this is now NPPF Paragraph 180.

## 3 ERRATA

- 3.1 NB rebuttal paragraph 3.37 is incomplete. The end of the sentence should tie to my following paragraph 3.38 and read "*and draws comparison to the Land at Merton Road appeal*".
- 3.2 NB Rebuttal Photo NB5 and NB6 are incorrectly labelled as previously submitted, the photograph illustrated for NB5 is actually NB6 and vice-versa. For clarity, an updated version of Photos NB5 and NB6 is provided.

## 4 POINTS OF CLARIFICATION

- 4.1 At paragraph 2.2 of Mr Connolley's Rebuttal, it is suggested that my Proof of Evidence is "the first time that the LVA methodology has been challenged" and that the LVA was submitted to the Council prior to submission. Firstly, I was appointed in September 2023, after the Council had refused the application and an appeal procedure and start date agreed by PINS. I could only have raised any comments or issues after I had been appointed and this is what I have done.
- 4.2 Copies of email correspondence between Mr Connolley's company EDP and Mr Tim Screen (one of the Council's Landscape Officers) are provided at Appendix EDP 1 showing that EDP reached out to Mr Screen informally on 24<sup>th</sup> March 2022 and 14<sup>th</sup> April 2022 to seek his views on the LVA methodology and proposed viewpoints. This was not part of a formal pre-application. Mr Screen gave no opinion on the methodology or viewpoints noting that he would review on receipt of the LVA report (as part of an application). If it were to be implied that this meant the Council had agreed the methodology, this is not the case.
- 4.3 As far as I am aware, the LVA itself was not submitted to the Council as stated by Mr Connolley in his rebuttal (paragraph 2.2) and this is not supported by the email correspondence that is provided at Appendix EDP 1.
- 4.4 I note that the photographs included in the LVA are dated 5<sup>th</sup> March 2022, prior to the email correspondence with Mr Screen, although this would appear to be incorrectly reported given the degree of foliage in the photographs and reference in the LVA to visits in May.
- 4.5 With regard to consultation with the Council, Mr Connolley's Proof notes at paragraph 1.6 that he provided a peer review of the original LVA "to consider consultation with the LPA and the application of the methodology that underpinned the judgements of others at EDP" (my emphasis). The LVA also refers to this consultation at paragraph 1.11, 5<sup>th</sup> bullet:
- "Consultation with the LPA was initiated in early 2022 to sign off proposed viewpoint locations. This was unsuccessful due to high workloads within the landscape department of the LPA. Commentary by the LPA on the proposed site layout received on 11th July 2022 suggests concerns with regards to the approach to Ambrosden from the west along Ploughley Road. Therefore, a series of Photoviewpoints (PVPs) has been considered from this direction."* (My emphasis underlined)
- 4.6 The correspondence now provided at Appendix EDP 1 does not include the stated "commentary by the LPA" dated 11<sup>th</sup> July 2022 regarding the site layout and concerns about the Ploughley Road approach. It is understood this relates instead to comments from Ambrosden Parish Council. Regardless, it is good practice for an LVA to address views from the adjoining road and approach to the settlement, notably, where locations lie within an initial Zone of Theoretical Visibility and there are open views (as noted in the baseline sections of the LVA).

## 5 REBUTTAL POINTS

### Winter views

- 5.1 I received draft versions of three winter 'wireline' views from Mr Connolley on 8<sup>th</sup> February 2023 and I have had the opportunity to briefly review these.
- 5.2 The images are mis-labelled as both 'Type 1' visualisations (ie. annotated photographs based upon estimated positions) and 'Type 4' visualisations (survey/scale verified photowires), with reference to the visualisation types set out in Landscape Institute TGN 06/19 (which is noted as being currently under review). No methodology was provided to confirm the data sources and verification nor the height that "up to 2 storeys" has been modelled at and the assumption of existing levels (given that the proposed built form will address sloping ground).
- 5.3 Mr Connolley states in his Proof (para 1.17) that the wirelines have been prepared using the Parameter Plan: Scale. The wirelines would therefore appear to indicate solely the roofline of the proposed area of "up to 2 storey development" that is shown on the Parameter Plan. The full 3D form and extent of the development is not illustrated, such that the proposed ground plane is missing that would allow a clearer consideration of how the proposed development areas would "sit" in the landscape pattern.
- 5.4 Views EDP3 and EDP6 demonstrate the increased visibility of the appeal site and prominence of the site on the north-facing upper slopes of the high ground that forms part of the ridge to Blackthorn Hill when viewed from the selected locations on Ploughley Road in winter. The site is clearly visible both over the top of the hedgerow and through gaps within it and is not "barely perceptible in views from within the surrounding context" as described by Mr Connolley in his Rebuttal para 3.19.
- 5.5 Even without the full 3D form indicated, the draft winter wirelines indicate that in winter, the proposed development would be visually intrusive, introducing a scale, form and pattern of development that is incongruous with the small-scale and intimate character and pattern of what is currently a relatively intact composition of intimate pastoral fields. The scale of built development would be noticeable on the north-west facing slopes of the ridge and open countryside well beyond the existing vegetated ridgetop and settlement edge of Ambrosden in views from Ploughley Road on approach to the village. The proposed built form would be perceived across the high ground and spilling down the slopes, encroaching into predominantly undeveloped farmland.
- 5.6 Whilst the wireline views are in draft form and represent the outline Parameters, and therefore do not indicate any new planting that might be possible to secure by condition should an appeal be allowed, I do not consider that planting and open space proposals could mitigate the visual impact of the proposed development given the scale of development, the permanent loss of countryside and masking of landform in the views, and the poor visual relationship to the existing settlement. The nature and topography of the site means that the proposed built forms sit higher than the proposed open space (and therefore bulk of any planting) on the lower slopes and could not mitigate nor provide effective screening that would also be in-

character. The winter wireline views do not alter the assessment and judgements I make in my Proof of Evidence in this regard.

- 5.7 I have updated my own viewpoint photographs to also illustrate winter views. These are included in my Appendix 1. These demonstrate the increased visibility of the site in winter.

### **The Buffer between Ambrosden and Bicester**

- 5.8 My role is not to provide evidence on policy matters. Even on that basis, I understand the synopsis set out at Mr Connolley's rebuttal paragraphs 3.1 to 3.4 (and woven into his consideration of 'The Buffer between Ambrosden and Bicester' and The Cherwell Landscape Sensitivity Assessment (CLSA, CD:L13) seems to suggest that the deletion of proposed Policy ESD 15 'Green Boundaries to Development' (not to be confused with adopted Policy ESD 15 'The Character of the Built and Historic Environment) from the Local Plan in July 2015 (refer CD:I2, Cherwell District Council Local Plan, Inspector's Report May 2015), means that the separation between Ambrosden and Bicester is not defined by policy and that therefore any physical reduction in the separation between the settlements is not a landscape consideration, just whether there would be harm to the sense of separation between them. (BC rebuttal para 3.8). As Mr Connolley discusses this matter in connection with part of my consideration of 'landscape susceptibility' (my Proof paragraph 5.16 is paraphrased at Mr Conolley's rebuttal paragraph 3.7), it seems to me that Mr Connolley's premise is that policy (or lack of policy) should directly influence LVIA judgements. This should not be the case.

### **Cherwell Landscape Sensitivity Assessment (CLSA)**

- 5.9 At paragraphs 3.5 to 3.11 of his rebuttal, Mr Connolley considers the Cherwell Landscape Sensitivity Assessment (CLSA) (CD:L13) guidance and recommendations have limited weight *"as these have yet to be fully tested and examined."* The CSLA was prepared by Landscape Architects, The Environment Partnership (TEP) in 2022 and forms part of the evidence base to the Local Plan review. In the context of LVIA, there is no requirement in GLVIA3 (CD:L1) that published studies used to inform baseline studies need to have been *"fully tested and examined"*.
- 5.10 GLVIA3 does however note that *"Those published and adopted by competent authorities are usually the most robust and considered documents."* (CD:L1, GLVIA3 para 5.12). This is in the context that *"Existing assessments must be critically reviewed as their quality may vary, some may be dated and some may not be suited to the task in hand. Before deciding to rely on information from an existing assessment a judgement should be made as to the degree to which it will be useful in informing the LVIA process. It should be reviewed in terms of:*
- *When it was carried out and the extent to which the landscape may have changed since then;*
  - *Its status, and whether or not it has been formally adopted, for example, as supplementary planning guidance;*
  - *The scale and level of detail.....*

- *Any other matters that might limit the reliability or usefulness of the information.” (CD: L1 GLVIA3 para 5.13)*

- 5.11 I have reviewed the CLSA as part of my consideration of the landscape baseline of the site and have set out its’ findings and relevance in paragraph 3.67 to 3.78 my Proof. The CLSA was prepared relatively recently (2022) by well-respected Landscape Architects and in the specific context of considering the potential landscape sensitivities of the landscape in relation to housing and other development. Whilst the CLSA is not formally adopted by the Council, this is not unusual in the case of landscape sensitivity assessment in contrast to landscape character assessment. It follows a range of earlier studies (by other Landscape Architecture practices) that have also looked at landscape sensitivity, landscape capacity and green buffers for the landscape adjoining settlements in the district.
- 5.12 It is correct to critique the range of published information relating to the landscape and visual baseline and review what other landscape experts have said about this landscape. I note that Mr Connolley’s Proof of Evidence previously drew parity between the CLSA and the LVA (CD: A17), at paragraph 2.18 stating *“It [the CLSA] identified a larger swathe of land to the north of Ambrosden as having a moderate sensitivity to residential development. This aligns with the sensitivity defined within the LVA”* and also outlining where recommendations within the CLSA were considered by Mr Connolley to have been followed in the development proposal (BC Proof paragraph 3.16).

### *The ridge to Blackthorn Hill*

- 5.13 Mr Connolley conflates the CLSA findings for land parcels BIC3 and BIC 4 in his rebuttal paragraphs 3.13 to 3.17. As acknowledged, Blackthorn Hill spans two land parcels within the CLSA, the land parcels relating to land with different characteristics and sensitivities. The *“open and prominent slopes”* that Mr Connolley considers the site does not form part of (BC rebuttal para 3.17), relate to BIC3 that does not include the site.

### *Provision of new open space and landscape*

- 5.14 Reference is again made throughout Mr Connolley’s rebuttal to *“the provision of new public open space alongside new tree planting”* that Mr Connolley considers would *“serve to reinforce the landscape structure immediately to the north and maintain physical and perceptual separation with Bicester”* (BC Rebuttal para 3.9, repeated from Mr Connolley’s Proof para 3.16, 3<sup>rd</sup> bullet and para 3.25). My evidence already sets out the reasons why I consider this would not be the case (notably, at Sections 5 and 7 of my Proof).
- 5.15 However, since Mr Connolley’s Proof was submitted an updated Biodiversity Net Gain (BNG) Assessment has been prepared by his company and submitted with the application. This confirms at Paragraph 3.9 and on Plan EDP 3, that a significant proportion (40%) of the proposed public open space (areas labelled as *“Green Infrastructure (incl. SUDS features)”* on the Parameter Plans) would need to be fenced with no public access allowed, in order to achieve the 10% net gain in biodiversity.
- 5.16 No information is given at this stage about which areas of open space would be fenced but



this is fundamental to achieving BNG and requires a large amount of the proposed open space to be made inaccessible. Whilst details of landscape treatments could be addressed as Reserved Matters in the event the appeal is allowed, a secure means of enclosure would be required, that could not be adequately achieved by a hedgerow or trees. Fenced field boundaries are not characteristic of the local landscape and could be intrusive in their own right and further disruptive to field pattern and yet potentially quite extensive fencing would be required to be introduced into the landscape to achieve BNG for the appeal scheme. This would clearly not *“reinforce the landscape structure”* as stated by Mr Connolley. Without fencing and preventing public access, the ‘good’ habitat condition stated in the BNG metric for the grassland could not be achieved and the biodiversity net gain would be reduced.

- 5.17 Whilst it would be fair to say that I could have picked this point up previously in rebuttal, on reflection, I should have included it as it seems to me that the stated delivery mechanisms for BNG and ability to achieve near the 10% net gain, have overarching implications on both landscape character and the function of proposed open space. I note that Mr Connolley also doesn’t address the landscape implications of the BNG assessment in his rebuttal.

### *The Relationship with the settlement edge*

- 5.18 At paragraph 3.21 of his Rebuttal, Mr Connolley now considers that *“the existing settlement edge adversely affects local character, being experienced as a stark contrast between urban form and open countryside”*, tying this to the wording of the Inspectors’ decision with regard to the Merton Road appeal. This contradicts Mr Connolley’s previous findings and those of the LVA regarding the softening of the settlement edge and filtering of views by the vegetation on the settlement edge and goes beyond even the *“relatively hard urban edge”* alluded to in Mr Connolley’s proof (paragraph 2.41 and 2.20 5<sup>th</sup> bullet). My own evidence does not suggest the settlement edge is an abrupt and stark transition.
- 5.19 Paragraph 3.22 of Mr Connolley’s rebuttal discusses elements of permitted planning application Ref: 22/01976/OUT, on land north of Blackthorn Road at the south eastern side of Ambrosden. I would add that this site has a different landscape context located between an existing built settlement edge, Blackthorn Road and the B4011, and lying on the broadly south-east facing slopes upon which much of the rest of the settlement is also located, with built development proposed solely within the Clay Vale LCT. The development does not have a ‘symmetrical village gateway’ in the same way I have described for the appeal site as alluded to by Mr Connolley. It is incorrect to state that landscape treatments and settlement pattern that might be considered appropriate in this location should therefore also be considered similarly appropriate for the appeal site.

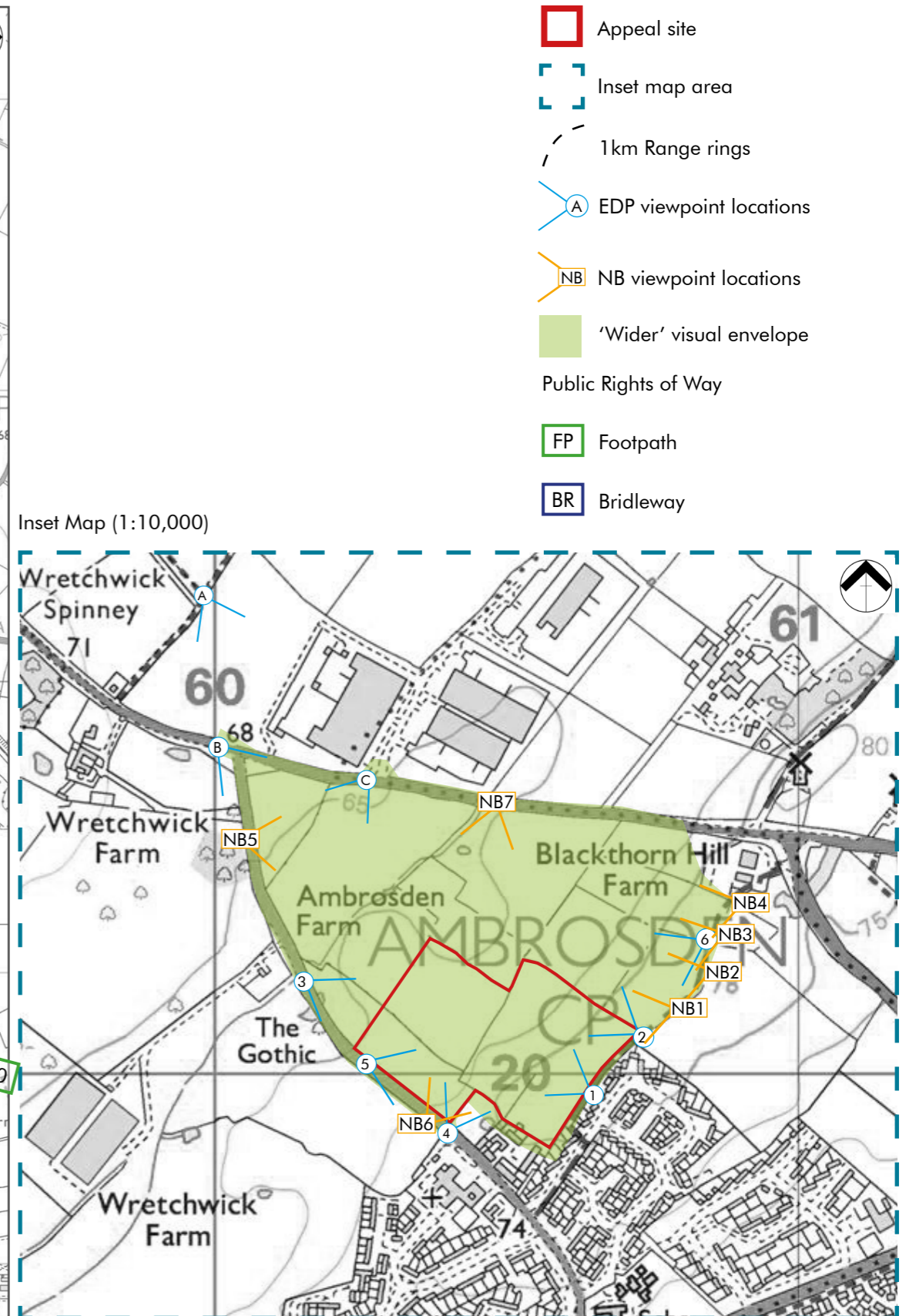
### *NB Photoviewpoints*

- 5.20 In rebuttal paragraph 3.25, Mr Connelley states that my photo from Ploughley Road that is referred to in my Proof Appendices as NB5 *“is not recorded from the footpath and, as such, is not representative of the viewing experiences for receptors travelling south along this road corridor.”* I would point out that this view is from a public highway and not a footpath as stated

by Mr Connelley. Users of a public highway have the right to use the road, pavement and verge across the full extent of the highway. My photo NB5 is taken from the verge looking across the gateway, as one would legally be entitled to pause and do when travelling on Ploughley Road. Similarly, views could be obtained from the pavement, from the grass verge between the pavement and the carriageway, and from the carriageway itself (which is elevated around 1m or more higher than the pavement in some parts of Ploughley Road) if the full range of receptor experiences were to be demonstrated.

## Appendix 1

Supplementary Winter Photographs: Viewpoints NB VP 1 to NB VP7



- Appeal site
- Inset map area
- 1km Range rings
- A EDP viewpoint locations
- NB NB viewpoint locations
- 'Wider' visual envelope
- Public Rights of Way
- FP Footpath
- BR Bridleway

1:20,000 @ A3  
 0 250 500 750 1000m

1:10,000 @ A3  
 0 200 400 600m

FIGURE NB5 rev A



NB VP1 Additional Sequential View looking southwest from Bridleway 105/6/20 approximately 100m north-east of the appeal site (supplements/replaces EDP 2).



NB VP2 Additional Sequential View looking southwest from Bridleway 105/6/20 approximately 165m north-east of the appeal site.

**PHOTO NB VP1 AND NB VP2 WINTER  
FOR ILLUSTRATIVE PURPOSES ONLY**



NB VP3 Additional Sequential View looking southwest from Bridleway 105/6/20 approximately 195m north-east of the appeal site.



NB VP4 Additional Sequential View looking southwest from Bridleway 105/6/20 approximately 260m north-east of the appeal site.

**PHOTO NB VP3 AND NB VP4 WINTER  
FOR ILLUSTRATIVE PURPOSES ONLY**



NB VP 5 Additional Sequential View looking southeast through gateway on Ploughley Road 385m north-west of the appeal site.



NB VP 6 Additional Sequential View looking northeast through gateway on Ploughley Road adjoining the appeal site (supplements EDP4)



NB VP 7 Additional Filtered View looking south through vegetation gap on the A41 north of the appeal site.

## PHOTO NB VP7 WINTER FOR ILLUSTRATIVE PURPOSES ONLY